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March 8, 2017

BY ECF

Honorable William H. Pauley III  
United States District Court for the  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1920  
New York, New York 10007

Re: *Robert S. Abrams and Robert S. Abrams Living Trust v.*  
*RSUI Indemnity Company*, No. 16-cv-4886 (WHP)

Dear Judge Pauley:

We represent plaintiffs Robert S. Abrams and Robert S. Abrams Living Trust (collectively, "Abrams"), in the above-referenced matter. During oral argument on the parties' cross-motions for summary judgment on Friday, March 3, 2017, Kevin A. Lahm, Esq., counsel for RSUI Indemnity Company ("RSUI"), referred to the parties' confidential settlement agreement, and argued that RSUI's waiver of its late notice defense was only directed at future defense expenses, and not pre-notification defense expenses. (*See* Declaration of Jeffrey Ephraim Glatt ("Glatt Decl."), Exhibit 1, at 13:12-14:3.) Despite RSUI's references to the agreement at oral argument, RSUI has declined Abrams' request to jointly submit the agreement for *in camera* review. (*See* Glatt Decl., Exhibits 2-4.) We respectfully request that the court review *in camera* the agreement, given RSUI's references to the agreement at oral argument. *See IIT v. Intl. Controls Corp.*, 2009 WL 3094942 (S.D.N.Y. Sept. 28, 2009) (Pauley, J.) (allowing *in camera* review).

Further, counsel for RSUI twice recited at oral argument that lack of actual prejudice would not override its late notice defense for pre-notification defense expenses. (*See* Glatt Decl., at 13:12-21; 26:10-14.) We refuted that erroneous contention in our two briefs. (*See* Abrams' Mem. of Law in Supp. of His Motion for Summary Judgment [Dkt. #39], at 8-11; Abrams' Mem. of Law in Opp. to RSUI's Cross-Motion for Summary Judgment [Dkt. #48], at 5-6, 9-10.)

Thank you for your attention to this matter.

Respectfully,

/s/ Jerold Oshinsky

Jerold Oshinsky

cc: Counsel for RSUI (by e-filing)